

FINAL GENERIC
ENVIRONMENTAL ASSESSMENT (EA)

STATEWIDE PUBLIC WATER ACCESS DEVELOPMENT FOR
THE STATE OF MINNESOTA

Submitted by
Minnesota Department of Natural Resources
Trails and Waterways Division

To the
United States Department of Interior
Fish and Wildlife Service
Region 3
Division of Federal Aid

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1. Purpose and Need

1.1 Purpose: The purpose of this Environmental Assessment is to consider alternative methods of providing new public water access and rehabilitating existing public water access sites to ensure adequate access to lakes and rivers is provided to Minnesota's anglers, hunters, and recreational boaters.

1.2 Need: The following is a host of needs Minnesota's public water access development program addresses through the use of federal funds provided by the Sport Fish Restoration Act and state monies.

1. A Minnesota state statute requires public access in order for the MN DNR to legally engage in fish management. In short, this means a lake without a public access will have no fish management performed by the MN DNR.
2. A need exists to provide public access for enhanced boating safety. When the weather turns inclement or other problems arise with the boat or the boaters themselves, it is always good to be able to get back quickly to the safety of shore. Well placed public accesses provide for that need.
3. A need exists for better public access for public officials engaged in search and rescue or law enforcement.
4. Today's affluent and mobile society is putting relentless demand on the state's water based recreation resources. Many existing access sites need enlarging to accommodate the increase in demand, particularly in the fast growing urban areas around the state.
5. Increased angling pressure has created a need to develop new public access on lakes with underutilized fisheries. Lakes that have no public access are sometimes impossible to access unless one knows a private property owner that will allow public access. Opening these lakes to fishing is needed to help meet demand and disperse angling.
6. A need expected to be addressed from the development of more and better public accesses will be the reduction of heavy fishing and boating pressure on the state's most popular lakes. The access program believes the development of more and better public access sites will promote broader statewide distribution of boaters and anglers, which will help relieve the pressures of too much use on existing access sites. Dispersion of boaters is widely viewed as favorable to providing quality recreation and safe boating experiences.
7. Another part of the need for new and better public water access sites are boating standards that have changed over the last couple of decades. Accesses that were once adequate are no longer of the right size or configuration to adequately serve today's larger boats, motors, trailers, and tow vehicles. As a result, many of the existing public access sites need to be enlarged by acquiring more land or by completely redesigning them.

8. Small ma and pa resorts that used to provide access are rapidly disappearing which has left a need gap which is being filled by the public water access program.
9. Lakeshore cabin owners who in the past used their property to launch boats are no longer able to do so due to the large, powerful and expensive boats now used. These types of boaters now need to use public access sites more than ever.

1.3 Decisions that Need to be Made: The U. S. Fish and Wildlife Service's Regional Director at Ft. Snelling, MN will select an Alternative and will determine, based on the facts and recommendations contained herein, whether this Environmental Assessment (EA) is adequate to support a Finding of No Significant Impact decision, or whether an Environmental Impact Statement (EIS) will need to be prepared.

1.4 Background: Minnesota's glacial formed landscape features over 12,000 freshwater lakes and many rivers including such world famous waters as Lake Superior, the Boundary Waters, and the Mississippi River. The outstanding lakes and rivers provide a multitude of outdoor recreation possibilities for anglers, hunters, and recreational boaters from all corners of the globe. Although the state is fortunate to hold such a rich public resource of natural lakes and rivers, many of these waters are either without public access or the existing access is so poor the public is not adequately served. Demand for public water access statewide is great as shown by research. Surveys indicate about 3/4 of the state's 827,000 registered boats annually utilize a free public water access. Minnesota has the highest boat registration per capita in the nation with one boat for every 6 residents. The state has 3.8 million acres of fishing waters used by 2.3 million anglers.

With the passage of a public access statute in 1947, the Minnesota Legislature declared its intent to acquire and maintain public water access sites to enable everyone to launch boats and utilize the natural resources for sport fishing and water recreation. Until 1979, the water access program was funded at a level only sufficient to maintain sites, perform minor site corrections or for the purchase of a few small inexpensive parcels of land. In 1979, the State Legislature recognized the need to accelerate the access program based on increasing demand. As a result, it appropriated additional funding and issued a stronger directive to provide for access. As stated in program policy, the goal of the water access program is "to provide and maintain free and adequate public access to all Minnesota's lake and river resources consistent with recreational demand and resource capabilities to provide recreational opportunities".

It should be noted the Minnesota Department of Natural Resources used Federal

Aid in Sport Fish Restoration funds to construct boating access facilities for many years prior to the Wallop-Breaux Act in 1984, although with the passage of the Act the public access program goals were substantially accelerated because of increased funding levels.

Today, Minnesota's boating access program is stronger than ever, with many successes to its credit. There continues to be strong user and legislative support for the program. Boat registrations continue to increase steadily year after year. The number of boating and fishing occasions is predicted to keep rising over time. Therefore, access improvements will be necessary to accommodate this increase in demand. Another factor is the aging condition of many of the access sites currently in existence in the public access program. To date, approximately 1550 public water access sites are being provided by the MN DNR. These sites are in continual need of improvement or redevelopment due to high use and changing boating standards. Boats and tow vehicles continue to increase in size and power, which cause some of the program's water access sites to become inadequate.

Location of work:

This project covers all public waters throughout the state of Minnesota. Access development will primarily occur on small parcels of state-owned land purchased for public access. Also, a portion of public water access development will occur cooperatively on lakes or rivers where other units of government own land suited for public water access.

Specific sites and descriptions of planned work are provided with annual grant agreement documentation. For purposes of program coordination and administration, the project headquarters will be the Minnesota Department of Natural Resources, Trails and Waterways Division, 500 Lafayette Road, St. Paul, Minnesota 55155-4052.

Access Program Funding:

The MN DNR annual operating budget in 1999 was \$246 million. The Public Water Access Program within the Division of Trails and Waterways, has an annual operating budget of about \$4.5 million (state), \$2 million (federal), and capital monies usually in excess of \$1 million per year. These monies are used to operate and maintain the access system as well as to purchase land, develop new access sites, and re-develop existing access sites.

The state money is generated from a portion of the state's gas tax and boat registration fees which are deposited into a dedicated water recreation account established in 1985. The gas tax portion attributed to motor boats is currently 1-

1/2 per cent. Revenue generated by boat registration fees is about 1/3 of that generated by the gas tax.

The Legislature has a history of providing the program with capital money through the state's Bonding program and a Legislative Commission on Minnesota Resources (LCMR) program which is primarily funded with state lottery proceeds. Without these two sources of capital money it would be more challenging for Minnesota to participate in the boating access portion of the Sport Fish Restoration Program as well as less access opportunities provided.

Laws and Directives:

MN DNR legislative authority and program policy: The public water access program's primary piece of legislation is Minnesota Statute 97A.141 (See Appendix A for its language). This statute directs the MN DNR Commissioner to acquire and maintain state water access sites on public waters whenever access is non-existent or inadequate.

The program also has its own policy and site design guidelines established in 1980 to help guide access development. A copy of the program policy and its design guidelines are available from Kim Lockwood, MN DNR Division of Trails and Waterways. Mr. Lockwood's address and telephone number are included in the list of preparers, Chapter 5.

Federal Aid in Sport Fish Restoration Act: The federal Sport Fish Restoration Act (SFRA), as amended, currently requires that each state shall allocate 15 per cent of the funds apportioned to it for the payment of up to 75 per cent of the costs of acquisition, development, renovation, or improvement of facilities that create, or add to, public access to the water of the United States to improve the suitability of such water for recreational boating purposes.

Clean Water Act, Section 404: permits for public access developments that meet certain thresholds for dredging or filling protected waters are required by the U. S. Army Corps of Engineers 404 Permit Program.

The following federal laws and Presidential Executive Orders also apply to projects undertaken as a result of federal funds received from SFR:

Endangered Species Act; Section 106, National Historic Preservation Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; Executive Order 13112, Invasive Species; and Executive Order 12898, Environmental Justice.

Issues and Concerns: The continuing increase in the amount of boat registrations coupled with high angling pressure and the popularity of recreational boating, has caused an increased demand for access facilities. Further, the baby boom generation with their penchant for outdoor recreation is projected to also increase the demand for access.

It is becoming increasingly difficult to acquire lakeshore property suitable for public access development. More and more residential development is occurring on lakeshore property statewide. This is resulting in high acquisition and development costs and an increasing difficulty for the general public to gain access to public waters.

Development needs have been identified, but the funding levels haven't been adequate to complete all of the opportunities available. The Twin Cities metropolitan region was identified as lacking adequate public access which will most likely never be met due to the high demands put on it and the difficulty in providing new access opportunities in a heavily populated urban area.

There has been some controversy over public accesses, but it is minimal and is handled on a case by case project basis. The most recent controversies have been in the metropolitan area and selected areas around the state where there is a high concentration of high quality recreational lakes such as in the Brainerd area. Controversy usually revolves around people's desire to prevent others from accessing the lake. The "not in my backyard syndrome" tends to surface on some lakes.

1.5 Project Duration: This environmental assessment for public water access development will cover the time period 2002 - 2008.

- 2. Alternatives:** Realistically, few alternatives exist for the development of public water access sites. The MN DNR's public access program feels they are best prepared to provide quality public access that takes into account the numerous environmental facets that need to be incorporated into access development. The high cost of development and associated land acquisition is cost prohibitive for most access providers. The MN DNR strives to ensure access development meets current environmental standards. It also works to set an example for others when working with the state's shorelines and waters.

In regards to Alternatives A and C which follow below, public water access sites for purposes of this project are defined as a facility up to 7 acres in size, containing a launch ramp, a parking lot, an entrance road, and visitor services such as docks, toilets, lighting and information kiosks. Parking areas range in size from 5 parking spaces up to 125 spaces. Access sites serve all types of boats including powered and non-powered and in many cases provide shore fishing opportunities for those without boats. Access site

development takes place on newly acquired parcels of land or on existing access sites.

Access development typically includes the following:

1. *New construction* of a facility on undeveloped land. Depending on the anticipated need and the characteristics of the site, features may include entrance roads; parking lots; concrete boat ramp(s); boarding dock; toilet(s) signs and bulletin boards; shore fishing access; erosion control and shoreline protection, lighting, landscaping and fencing as needed.
2. *Reconstruction or replacement* of existing access sites. Elements of this activity may include the resurfacing of parking lots and entrance roads; adding more parking spaces; repair or replacement of a concrete boat launch ramp; or the repair or addition of site amenities such as docks, lighting, landscaping, toilets, etc.

2.1 Alternatives not Considered for Detailed Analysis:

2.1.1 Public/private partnerships to provide water access was not given a chance of success due to the many issues which typically separate the two entities. The lake resort industry in Minnesota is large and healthy and to a degree does provide a meaningful amount of water access to a limited amount of water bodies throughout the state. These access sites invariably include launch fees and perhaps marina services. Government red tape and potential conflicts between public and private users precludes detailed analysis of this concept.

2.2 Alternatives Carried Forward for Detailed Analysis:

2.2.1 Alternative A - No federal funding for access. This alternative would involve the disapproval of Sport Fish Restoration (SFR) federal funding for proposed access development projects. The MN DNR would continue to develop and re-develop access sites with state funding only. The annual negative fiscal impact, based on past SFR allocations for Minnesota, would be \$500,000 to 750,000. The absence of federal funding would put a severe stress on the state's ability to continue to meet the need for new and improved access facilities. The state would likely need to place their statewide water access maintenance program into the federal aid system to replace the development projects that had previously been earning SFR monies. This scenario could be costly and cumbersome to implement at both the state and federal levels.

2.2.2 Alternative B - Private sector provision of water access: With alternative B, existing state owned access facilities would continue to function although development of new sites would depend primarily on the private sector. Private sector accesses can work well on lakes and rivers where there is a high demand for access. On lakes where there is medium to very low access demand it would not be profitable for the private sector to provide access which would then

result in the public not having adequate access to many of the state's water bodies. Experience has indicated private resorts tend to charge excessive fees where no competition exists, and price fixing by lake resorts is a recognized possibility. Private access is not a dependable source of access as they are not open 24 hours a day seven days a week, or even all year long as public accesses are. They can also go out of business, which effectively prevents water access. At present, the Legislature mandates free and adequate access to all publicly owned waters on which the public has a right to hunt and fish. Alternative B would undoubtedly be viewed unfavorably by the state legislature and boaters. The private sector would not be able to advance the access mandate to the degree the MN DNR can.

2.2.3 Alternative C - No Action (Preferred Action): The proposed action will continue to provide funding for public water access development through the SFR program. A continuance of this past successful alternative will ensure consistency and quality in the provision of public water access in addition to the protection of the natural environment. Alternative C will help meet the boating public's need for safe and adequate recreational boating and fishing facilities. It will help meet the need for the construction of new facilities and ensure existing facilities that have become inadequate are rehabilitated for safe and functional use.

Under this alternative, the public will have ample input into where the access sites are located and how they function. Sites are chosen for development by a team of MN DNR professional staff through an on site evaluation of many criteria such as the potential for the site to sustain boat and trailer use and the cost of the land and development in relation to the value it will provide to boaters. Other criteria are potential impacts to wetlands, listed species, cultural resources, neighbors and the neighborhood. Roads and traffic are also part of the evaluation. Sites are designed to provide visual buffers for the neighbors and from the lake.

The environment will have a high level of protection due to the stringent adherence to rules and regulations and the higher standards government is held to. Issues that are controversial will be addressed and facilities will not negatively impact endangered species, floodplains, wetlands, or cultural resources, based on Federal laws applicable to Federally funded activities and projects. Compliance will be assured through the NEPA and Intra-Service Section 7 processes.

In accordance with 550 FW 2.2.A(d), 40 CFR 1500.4(i), 1502.20, a written site specific review form will be provided to the USFWS, Division of Federal Aid, Ft. Snelling for each proposed public water access site. This written review will address each of the environmental issues listed in Table 1 at the end of this chapter. It will also give the status of the issue and whether the issue triggers the need for additional review or consultation on whether a site specific EA is necessary. An example of such a site specific review form is shown in Appendix

C.

Programs, such as Public Water Access Development, funded with SFR funds are designed and built to meet the standards of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. During the design phase of an access development, site plans are sent to the USFWS, Division of Federal Aid, Ft. Snelling for review and input.

The environmental issues or triggers typically associated with public access development are listed and described in the sections below. If in the rare case environmental triggers are tripped, a site specific EA would be performed based upon established criteria summarized in Table 1, page 13 of this document.

1. Executive Order 11988 - Floodplain Management: Executive Order 11988 requires, to the extent possible, the avoidance of adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. It is intended to minimize the threat to life and property resulting from flooding.

By their purpose, public water access sites are often located in floodplains and therefore there is no practical alternative for their location. Access construction involving modification to the floodplain is designed to avoid or minimize impacts to property and facilities. Flood damage at an access site would be limited to docks, concrete boat ramp planks, or parking lots. When an access site is built in a floodplain, the MN DNR design engineers and hydrologists ensure there is no construction that could alter the floodplain's capacity to hold water.

Access site facilities will be modified to the extent possible to minimize negative impacts to the floodplain. If major floodplain problems exist that can not be addressed, the USFWS will be consulted for advice and guidance for the need for a site specific EA. If this generic EA is determined not to be adequate, a site specific document will be prepared or the project will be dropped from consideration.

2. Executive Order 11990 - Protection of Wetlands: Executive Order 11990 requires, to the extent possible, the avoidance of adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands whenever there is a practical alternative. Wetland impacts are avoided where possible when planning public water access sites. The access program is also subject to the Minnesota Wetlands Conservation Act (WCA) of 1991. WCA is a comprehensive wetland protection program designed to fill the gaps in existing state and federal laws. WCA requires that the access program must avoid and minimize impacts to wetlands as much as

possible. Replacement wetlands must be provided for wetland losses that are unavoidable. The Minnesota Board of Water and Soil Resources (BWSR) compiles an annual wetland report that among many other things, reports wetland gains or losses by state, federal, private and nonprofit organizations. The MN DNR's water access program is required annually to submit their wetland gains or losses as a result of the public access development program to BWSR for inclusion in their annual wetland report.

If any net loss of wetlands that can't be adequately mitigated is likely to result from an access development project, the USFWS will be consulted on the need for a site specific EA. If this generic EA is determined not to be adequate, a site specific document will be prepared or the project will be dropped from consideration.

3. Endangered Species Act (ESA): Section 7 of the ESA requires every Federal agency to ensure any action it funds is not likely to jeopardize the continued existence of any listed species, or result in the destruction or adverse modification of critical habitat. Prior to USFWS approval of each Grant Agreement a Phase I Federal Aid Section 7 Evaluation Form is completed and signed by the MN DNR Endangered Species Coordinator and the state project leader. The Phase I form includes: (1) Identification of federally listed, proposed, or candidate endangered or threatened species, and/or designated critical habitat that occur within the project area; (2) a project description consisting of a State review and recommendation about the effects of the proposed project on species and/or designated critical habitat occurring within the project area and; (3) documentation of the State's recommendation, if the project is either "not likely to adversely affect", or "likely to adversely affect" species or critical habitat. A "likely to adversely affect" designation would indicate the need for further consultation with the USFWS to determine if a site specific document is necessary. If this generic EA is determined not to be adequate, a site specific document will be prepared or the project will be dropped from consideration.

4. Executive Order 13112 - Invasive Species: Executive Order 13112 is to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts invasive species cause. The MN DNR has taken an educational approach in addition to other removal or abatement measures to prevent the spread of invasive species. An invasive species awareness program is used to educate the public and has been successful at informing the public what to look for on their boats as they remove them from the lake and how to dispose of any invasive species found on their boats or trailers. The education effort includes extensive signing at all access sites along with volunteers and Minnesota Conservation Corps employees who perform checks at some of the busiest access sites throughout the state. These efforts have

been well received by the public and will continue indefinitely. If any area that is proposed for an access is especially sensitive to an invasive species infestation, a study will be conducted to determine if it is appropriate to develop an access. Should it be shown that providing access may pose an unreasonable risk of introducing invasive species to sensitive areas, the USFWS will be consulted on the need for a site specific EA.

5. Section 106, National Historic Preservation Act: All public access development proposals are reviewed by the State Historic Preservation Officer (SHPO) to ensure that each proposed development project will not impact any cultural or architectural resource. The MN DNR water access program has had a full-time archeologist under contract since 1985 to review all potential access development whether it be federal or state funded. No development project can proceed without clearance from the SHPO. Copies of SHPO clearance letters will be provided to the USFWS Regional Federal Aid Office prior to development.

In almost every case it has been possible to avoid cultural resource sites. In those rare instances where avoidance was not possible, the MN DNR negotiates site mitigation with the SHPO and the National Advisory Council on Historic Preservation. If cultural resources exist that cannot be addressed to SHPO satisfaction, the USFWS will be consulted concerning the need for a site specific EA. If this generic EA is determined not to be adequate, a site specific document will be prepared or the project will be dropped from consideration.

Indian Tribes who have requested that they be notified of Federal Aid activities within the project area will be contacted to identify concerns that the Tribe might have about potential project impacts to traditional cultural properties, sacred sites, or cultural items such as human remains, funerary objects, sacred objects, and objects of cultural patrimony.

6. Executive Order 12898 - Environmental Justice: Construction of boat access facilities in Minnesota are not likely to have an adverse effect on minorities and low income populations and communities. Public water access sites are available for free use by all people regardless of economic status or ethnicity. In the Twin Cities, access sites are most often developed in an existing public park or on a site that had been previously zoned commercial such as a marina that has gone out of business. If anything, these access sites would be a positive outdoor recreation opportunity to be enjoyed by all.

In addition to its boat access program, the MN DNR has a very active fishing pier and shore fishing program established in 1984. There are over 200 floating fishing piers and many improved or unimproved shore fishing sites located in all areas of the state, especially in the Twin Cities metropolitan area. These sites are

provided for people without boats, the elderly, children, and people with disabilities.

If situations arise that indicate a possible adverse affect on minorities or low income individuals, the USFWS will be consulted on the need for a site specific EA. If this generic EA is determined not to be adequate, a site specific document will be prepared or the project will be dropped from consideration.

7. Public Controversy: Public water access development issues, which can sometimes become controversial and complex, are resolved by including stakeholders in discussions to promote cooperation and joint problem solving. Local communities, area property owners, and interest groups, are invited to participate in planning public water access development.

The MN DNR's procedures to solicit verbal and written public comment begin during the land acquisition phase of a development project. This allows issues and concerns regarding the social and physical environment to be adequately addressed prior to the actual purchase of the land. Land is purchased from willing sellers by means of an "option to purchase real estate". Options typically run from 2-6 months in length which gives ample time for issues to surface and be addressed before a decision is made to either purchase the land or not. When the MN DNR takes an option to purchase a parcel of land for a public water access site, there is a public notification published in the newspaper of the town closest to the lake and/or in a local newspaper with a countywide circulation. Comments are accepted for 30 days after publication.

During water access site development, the MN DNR works closely with the affected neighborhood, adjacent neighbors, the lake association, and local units of government that may have an interest in the access site. In the case of the development of a new access site, if more than five years has passed since the land was acquired, or if there is substantial (as defined below) change in the design since it was publicly presented, public notification will again take place as outlined above for acquisition. In cases where an access development project does not involve acquisition of land and the development is simply a redevelopment of an existing access facility to modernize it, public notification as outlined above for acquisition will not take place. In the case where redevelopment of an existing access facility produces a substantial expansion of parking capacity, with substantial being defined as an increase of 50% or more in the number of parking spaces at the site, public notification will occur as outlined above for acquisition.

Depending upon the circumstances, the MN DNR uses various methods to inform and involve the public and other government entities affected by the access

development program. The public is informed through local newspaper notices of intent, individual mailings to potential affected parties, by public meetings in the form of an open house to explain the project and answer questions, MN DNR staff attending city, county or township meetings to explain development projects, meeting with lake association members, and meeting with the immediate neighbors of a proposed development. Elected officials are also sometimes made aware of access development proposals and are a definite part of the equation for a successful development project.

Concerns that surface during the public processes are generally related to the “need” for the access and not the effects the project may have on the environment. The public access program is sometimes confronted with a “not in my back yard” attitude. If issues cannot be resolved and opposition or controversy is substantial, site development would be dropped or delayed until a site-specific Environmental Assessment is completed.

8. No Access Waterway: “No access waterway” is defined as a water body that currently has no access facilities for public use and currently is utilized only by riparian landowners or through a private facility. This is not likely to be an issue as there are few if any lakes or rivers in Minnesota with a waters of the state designation that are totally controlled by private landowners that could be considered as having no existing opportunity for public access. If the rare situation occurs with this issue, the USFWS will be consulted on the need for a site specific EA. If this generic development EA is determined to be inadequate for the task, a site specific document will be prepared or the project will be dropped from development consideration.

9. Traffic Flow and Safety: Access projects are reviewed by MN DNR staff and road authority officials to check for road safety issues that may arise due to boat/trailer traffic entering and leaving the access sites. Turn lanes are often provided as part of access design if the site will receive heavy use. The location of the driveway for the site is also considered as well as sight lines involving hills and curves. If traffic safety issues persist, the USFWS will be consulted on the need for a site specific EA. If this generic development EA is determined to be inadequate for the task, a site specific document will be prepared or the project will be dropped from development consideration.

10. Cumulative Impacts: If cumulative impacts are determined to be a possible problem, the USFWS will be consulted on the need for a site specific EA.

Table 1. Summary of Triggers that May Lead to Closer Environmental Review

Issue	Trigger
1. Floodplains	If major floodplain problems exist that can not be addressed, the USFWS will be consulted for advice and guidance concerning the need for a site specific EA.
2. Wetlands	If any net loss of wetlands that can't be adequately mitigated is like to result from any access development project, the USFWS will be consulted on the need for a site specific EA.
3. Listed Species	A "likely to adversely affect" determination would indicate the need for further consultation with the USFWS to determine if a site specific document is needed.
4. Invasive Species	Should it be shown that providing access may pose an unreasonable risk of introducing invasive species to sensitive areas, the USFWS will be consulted on the need for a site specific EA.
5. Cultural Resources	If cultural resources exist that can not be addressed to SHPO satisfaction, the USFWS will be consulted concerning the need for a site specific EA.
6. Environmental Justice	If situations arise that indicate a possible adverse affect on minorities or low income individuals, the USFWS will be consulted on the need for a site specific EA.
7. Public Controversy	The public will be notified and provided an opportunity to comment on the project. If controversy is found and persists after discussion or meetings, the USFWS will be consulted on the need for a site specific EA.
8. No Access Waterway	If the rare situation arises where it is possible that this could be an issue, the USFWS will be consulted on the need for a site specific EA.
9. Traffic Flow and Safety	If construction of the site would cause problems to existing traffic flow or create safety problems with regard to traffic, the USFWS will be consulted on the need for a site specific EA.
10. Cumulative Impacts	If cumulative impacts are determined to be a possible problem, the Service will be consulted on the need for a site specific EA.

- 3. Affected Environment:** The affected environment for this statewide public water access development project includes lakes and rivers and their associated uplands. The following is a summary of Minnesota's major landscapes, a brief review of the state's lakes and rivers, and a description of the immediate environment for water access developments.

3.1 Statewide Natural Landscapes

Three of North America's ecological regions, or biomes, representing the major climate zones converge in Minnesota. Prairie parkland, deciduous forest and coniferous forest will be affected by this water access development proposal. Below is a brief description of the three biomes.

Prairie Parkland

Vast grasslands used to spread from the northwestern to the southeastern tips of the state. With the advent of European settlement, much of this flat and fertile prairie land fell to the settlers plow. Today, only one per cent of the original prairie remains. Urban sprawl and agriculture are now the dominate forces on this land.

Deciduous Forest

It is a species rich extension of the eastern deciduous forest, with numerous plant species occurring here at the very western edge of their range. This landscape includes the forests of southeastern Minnesota and extends through the prairie-coniferous transitional zone, up to the aspen parklands in northwestern Minnesota.

Coniferous Forest

It is the largest of the state's three biomes covering two-fifths of the state, including the north central and northeastern regions. Glaciers sculpted this landscape leaving boulders, outcrops, hills, numerous lakes and bogs. Dense forests occupy the uplands, with bedrock lakes in the northeast, ice block lakes in the south and west, and large, open peatlands in lower areas.

3.2 Lakes and Rivers

This proposal for statewide access development will affect numerous inland lakes and rivers plus Lake Superior. Minnesota's lakes range from the sterile, rock basin lakes in the northeast to the naturally fertile, shallow lakes of the southwest prairie region. Rivers vary from the urbanized Mississippi in the Twin Cities to remote rivers on the Canadian border. Appendix B shows the distribution of the state's lake and river systems.

Including Minnesota's portion of Lake Superior, lakes cover about 5% of the state's area. Lakes are not evenly distributed throughout the state, they are most numerous in the northeast and central part of the state. The northwestern, extreme western and southern part of the state show a sparse distribution of lakes. Lake Superior is the largest freshwater lake in the world. It supports a decent cold-water fishery and hosts recreational boating through the MN DNR's developing system of accesses, harbors, and marinas. Inland lakes provide the bulk of waters used for angling and boating in Minnesota. About 10,000 lakes are of sufficient depth to provide good sport fishing and boating. The northern lakes and forested regions contain about 46% of Minnesota's lakes with the land being predominately forested. The lakes are relatively deep with depths ranging from 25 to 60 feet. The north-central region of the state contains about 40% of the state's lakes. Only 16% of the land is forested with the rest in agriculture or development. The western plains region of the state has about 12% of the lakes. Most are large and shallow and affected by the cumulative effects of intensive

land use. Rivers are numerous which consist of 25,000 miles of flowing water with the Mississippi being the most prominent and heavily used by boaters. Other important rivers with public water access developments include the Minnesota, the St. Croix, the St. Louis, the Rainy, and the Red.

3.3 Immediate Environment of a Typical Public Water Access

Public accesses to lakes and rivers are typically situated on one to seven acres of land adjacent to the water. The average size of a site is about two or three acres with at least 100 feet of shoreline which constitutes a very small portion of a water body's shoreline or associated uplands. Within the area of development, typically an estimated 50% is landscaping and open green space. Often times the public access is the only piece of public land on the lake with the rest of the land in private ownership in the form of small parcels used for second homes or cabins.

The concrete boat launch ramp and the gravel or asphalt surfaced parking lot would typically have the most potential for impact to the environment. All MN DNR motor boat access sites have a concrete ramp for convenience and to protect the shoreline from erosion. Parking areas are setback from the lake and storm water is managed through best management practices before it enters the lake or river. Each site is landscaped with native plants and parking is screened from the lake and neighbors as best as possible. Wetlands are sometimes part of an access property, when that is the case they are avoided or mitigated and often times act as a buffer area.

4. Environmental Consequences: A discussion of the environmental consequences for the three alternatives discussed in Chapter 2 is included as follows in this chapter. Table 2, at the end of this chapter summarizes the three alternative's environmental consequences.

4.1 Alternative A - No Federal Funding for Access: This alternative would continue the MN DNR's public water access program with a diminished capacity to provide adequate access to meet the needs. Where and when development work could be accomplished with state funds, adequate public access would be provided. These efforts would take into account the numerous environmental and socio-economic considerations which are required by development projects of this scope and magnitude. The MN DNR's program policies and design guidelines would help ensure that access development met current environmental standards.

State laws are in place that would protect floodplains, wetlands, endangered species, and cultural resources, etc, though without the added protections brought through the link to federal funding. With fewer funds to work with, and less projects being developed, problems associated with overcrowding and deteriorating facilities would soon develop. A diminished access program could possibly result in the public's alternative use of undeveloped sites on road right-

of-way, or by trespass on private property, and overcrowding on some waters with adequate access could occur. Boating access opportunities in the state would not meet the need of boaters and anglers.

Under Alternative A, environmental consequences associated with public water access could be anticipated as follows: Listed Species, both federal and state, as well as sensitive species of flora and fauna, would be reviewed by MN DNR and others as appropriate. Necessary precautions would be taken to protect listed or sensitive species either through avoidance or mitigation. Cultural Resources would be reviewed by the access program's staff archeologist and the State Historic Preservation Officer as per Minnesota laws. Cultural resources would see no adverse effect as a result of site development or site use. Floodplain impacts would be reviewed under state and federal law. The necessary permits would be sought and avoidance measures would occur if required. Site development would not impact flood stage levels. Wetland impacts would be none or perhaps minimal as per state and federal regulations. Regulations require the access program to avoid first, minimize second and if neither is possible, mitigate and replace affected wetlands. Invasive Species are addressed by the state's rather aggressive public education and law enforcement program which is funded mostly by boaters. Boat inspections, signage at public access points, and public service announcements are part of the program as well as the ability for law enforcement to write citations for some offenses. Environmental Justice, although rarely an issue encountered with this program, would be reviewed and addressed appropriately as per state and federal guidelines. Public Controversy is sometimes present as the public access program moves its goals forward. The access program responds to public sensitivities by working with all affected parties to resolve issues. The program strongly believes in being a good neighbor and does everything possible to reduce public concern. No Access Waterways would be addressed as needed by state officials. Accessibility would be addressed as per the current standards contained in the Americans with Disabilities Act (ADA) and other applicable state and federal laws. Access sites would be designed and built to meet the needs of people with disabilities. The ability to meet demand for more facilities would not be adequate under this alternative. State monies are not currently sufficient to keep up with the demand for new and improved access sites. The ability to utilize federal aid motorboat funds would not occur under this alternative. Traffic flow and Safety would be reviewed by the state and addressed as needed. Cumulative Impacts, if there were any, would be monitored and addressed as needed by the state and others. Theoretically there could be more cumulative impact to the environment as the state would not have the funds to adequately advance the access program which could lead to boaters resorting to other less environmentally sensitive means of accessing the state's waters.

4.2 Alternative B - Private sector provision of water access: Under this

alternative, compliance with state and federal environmental regulations would likely be inadequate. The development of private access sites can meet the letter of the law but still not provide a high degree of environmental sensitivity or protection. Most aspects associated with boating access opportunities in Minnesota would suffer under this alternative.

Under Alternative B, the possible environmental consequences would be as follows:

Listed species or their habitat could be impacted if the private provider of access is not required to thoroughly consider listed species as part of site development and site use. Cultural resources would be given very little consideration and perhaps none since there would be no state or federal funding under this alternative. Flood plains and wetlands may not receive adequate consideration and protection. Economics can play a larger role when it comes to private development. While private development of boat access would still require floodplain and wetland review and permitting, experience has shown avoidance and mitigation measures are not usually as thorough and complete as in the public sector. Invasive species control would be less under this alternative as the state's watercraft inspection program takes place only at public access sites. The ability for the boater to be inspected or educated about the effects of invasive species at a private access are much less than at public access sites. Environmental justice would not be equitable under this alternative. Private access sites charge fees which would preclude some people from using them. Private resorts also tend to be located far from the Twin Cities metropolitan area where there are no large populations of poor and minority people. Public controversy would most likely still occur occasionally as a result of access proposals put forward by the private sector. It is assumed controversial issues would be addressed appropriately even though the force and effect of state and federal monies would be absent. No access waterway would not be an issue as the public would be able to use the private access by paying a fee to gain access to the water body. ADA compliance, while required, would likely be driven by complaint and litigation. The ability to meet demand for more access facilities would not occur mainly due to the economics of providing boat access. While the public sector can provide access without the concern for an economic payback the private sector cannot without going out of business. The ability to utilize federal aid motorboat funds is not an option under this alternative as the private sector is not eligible to utilize SFR monies. Traffic flow and Safety would be given little consideration. Cumulative impacts under this alternative could very likely be greater than the public sector since there is no systematic statewide plan for private access development and there are no stringent environmental standards to adhere to, all of which lead to the possible conclusion there would be more negative cumulative impacts to the environment under this alternative than perhaps others. It is likely that private access development, driven by a profit motive, would be concentrated

on a very few lakes which, because they are very popular with anglers and boaters, would support the development and operation of private, fee based access sites. Such concentration of private access development could lead to cumulative adverse environmental impacts.

- 4.3 Alternative C - No Action:** Alternative C is the proposed action. This alternative would provide sufficient funds through the utilization of dedicated SFR motor boat access funds. This action will provide quality public water access while ensuring there will be no significant impacts to the environment. The possibility of adverse environmental consequences are addressed under this action through numerous laws, regulations, processes and procedures for avoidance, mitigation, and assurance of minimal impact. Full compliance with the National Environmental Protection Act (NEPA) is required. A site specific Environmental Assessment may be necessary for projects that have substantial negative environmental impacts.

Environmental consequences under Alternative C would be minimal or none due to the avoidance measures required as a result of federal SFR monies being involved. In the rare event there is the possibility of a negative impact regarding any of the issues specified in Table 2, a site specific EA will be considered.

Under Alternative C, environmental consequences associated with public water access could be anticipated as follows: Listed Species would be reviewed by both MN DNR and USFWS to ensure no adverse impacts. The necessary precautions would be taken to protect listed or sensitive species either through avoidance or mitigation. Cultural Resources would be reviewed by the water access program's staff archeologist and the State Historic Preservation Officer as per state and federal laws. If possibility of unacceptable impact, closer review may be performed at federal and state level. This alternative ensures cultural resources would see no adverse effect as a result of site development or site use. Floodplain impacts would be reviewed by both MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed. The necessary permits would be sought and avoidance measures would occur if required. This alternative ensures site development would not impact flood stage levels. Wetland impacts would be none or perhaps minimal as per state and federal regulations. Regulations require the access program to avoid first, minimize second and if neither is possible, mitigate and replace affected wetlands. Access project proposals would be reviewed by MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed. Invasive Species are addressed by the state's aggressive public education and law enforcement program which is funded by boater fees. Boat inspections, signage at public access points, and public service announcements are part of the program as well as the ability for law

enforcement to write citations for some offenses. Project proposals would be reviewed by MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed. Environmental Justice, although rarely an issue encountered with this program, would be reviewed and addressed appropriately as per state and federal guidelines. Project proposals would be reviewed by MN DNR and USFWS staff to ensure all issues are identified. If possibility of unacceptable impact, closer review may be performed. Public Controversy is sometimes present as the public access program moves its goals forward. The access program responds to public sensitivities by working with all affected parties to resolve issues. The program strongly believes in being a good neighbor and does everything possible to reduce public concern. Prior to development affected parties are notified of program intent. If controversy arises and cannot be resolved, the result may be a site specific EA. The EA process is comprehensive, open and includes ample opportunity for public input. No Access Waterways would be reviewed by MN DNR and USFWS staff to determine if an issue exists. If possibility of adverse impact, closer review may be done. Accessibility would be addressed as per the current standards contained in the Americans with Disabilities Act (ADA) and other applicable state and federal laws. Access sites would be designed and built to meet the needs of people with disabilities. Federal and state review would assure compliance and provide more funds to allow opportunity to consider additional options. The ability to meet demand for more facilities would be more adequate under this alternative than others. State monies are not currently sufficient to keep up with the demand for new and improved access sites. This alternative would maximize the ability to address current needs. The ability to utilize federal aid motorboat funds would occur under this alternative. This alternative would ensure all federal boating funds were utilized. Traffic flow and Safety would be reviewed by MNDNR & USFWS staff to ensure no adverse impact. Cumulative Impacts - in the last 20 years there have been some noticeable changes in the provision of boating access as well as the boats themselves. Generally speaking there is now less private access, less unofficial access and more well planned and updated public access. No major problems have surfaced as a result of more public access. Since 1982, the number of registered boats has increased by 36% in Minnesota. As mentioned earlier in this document, the small ma and pa resort industry has declined substantially in the last couple of decades and boats and boat motors have increased in size dramatically. These factors have contributed to the need for more public access sites as the boat launch opportunities both from private lakeshore residences and from small resorts subsided. In the past many boaters could launch at unofficial and oftentimes user developed sites that weren't sensitive to the immediate lake environment or were unsafe due to vehicle traffic issues. Most boats must now use public sites that are more sensitive to the immediate environment, better organized and much safer and convenient. It is anticipated the public access program will continue to take on a larger

responsibility in providing public access, which will be as sensitive as possible to the natural and social environments.

Approximately four to six access site developments are planned per year under this federal aid program. The land area for each access site development typically ranges from two to five acres in size. Assuming the average size of each site is three acres and there are five sites built per year, the annual cumulative impact for development of access facilities would affect about 15 acres of land. Over the six year life of this EA, it is estimated 90 acres of land would be impacted. Most of the impacts would be to upland vegetation associated with lakeshore lots and farm fields with some impact to riparian zones. In the water or shoreline effects are limited and short term with the application of site construction “Best Management Practices” (BMP’s).

Positive statewide cumulative impacts are good boater and angler distribution to help spread resource use rather than concentrate it. Since each development is designed and built to take the immediate environment into account, there is little if any environmental degradation. Problems that may arise can be treated immediately and effectively. Cost of land acquisition and site development coupled with a watchful eye of lakeshore property owners will undoubtedly preclude the existence of too many public accesses on any given body of water throughout the state. State and county administered water surface use regulations will help minimize conflicts and abuse of the natural environment.

Table 2. Summary of Environmental Consequences by Alternative

Issue	<u>Alternative A</u> (No Federal Funds)	<u>Alternative B</u> (Private sector provision)	<u>Alternative C</u> (No Action, State continues as before)
1. Listed Species	Would be reviewed by MN DNR to avoid adverse impacts.	No review unless USACOE 404 permit needed.	Would be reviewed by both MN DNR and USFWS to ensure no adverse impacts. If possibility of unacceptable impact, closer review may be performed.
2. Cultural Resources	Would be reviewed by SHPO under Minnesota laws.	No review unless there's a 404 permit required.	Would be reviewed by SHPO under both state and federal laws. If possibility of adverse impact, closer review may be performed
3. Floodplains	Would be reviewed by MN DNR under Minnesota laws and permitting process.	Protection only through USACOE permitting.	Would be reviewed by both MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed.
4. Wetlands	Would be reviewed within MN DNR under Minnesota laws and permitting process.	Protected through state and federal law.	Would be reviewed by MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed.
5. Invasive Species	State would attempt to minimize the chance of introductions through public education and facility design.	State laws apply but may not be given as much consideration.	Would be reviewed by MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed.
6. Environmental Justice	State would address issues as needed.	Little if any consideration given.	Would be reviewed by MN DNR and USFWS staff to ensure all issues are identified. If possibility of unacceptable impact, closer review may be performed.
7. Public Controversy	State would still address controversy as it arose.	Public would have minimal input and affect.	Public notified of intent. If controversy persists, may result in site specific NEPA process which tends to be more open because it has both state and federal oversight.

<u>Issue</u>	<u>Alternative A</u> (No Federal Funds)	<u>Alternative B</u> (Private sector provision)	<u>Alternative C</u> (No Action, State continues as before)
8. No Access Waterway	State would give consideration if needed.	Little if any consideration given.	Would be reviewed by MN DNR and USFWS staff to determine if an issue. If possibility of adverse impact, closer review may be done.
9. Accessibility	State would still design and build sites to be accessible according to laws.	Legally required to provide, only enforcement is civil lawsuits	Would assure compliance and provide more funds to allow opportunity to consider additional options.
10. Ability to meet demand for more facilities	Diminished due to funding reduction.	Would be largely unmet except in few instances where it would be economically feasible.	Would maximize the ability to address the current needs.
11. Ability to utilize federal aid motorboat funds	Would not be done through site construction, some may be utilized for maintenance.	Federal funds may be reverted, or if not, would be under utilized.	Would ensure all boating funds were fully utilized.
12. Cumulative Impacts	State would monitor and address impacts if present.	Planning to prevent impacts would not be prevalent nor would remedies to relieve impacts.	Would be reviewed by MN DNR and USFWS staff to ensure no adverse impact. If possibility of unacceptable impact, closer review may be performed.
13. Traffic Flow and Safety	State would give consideration if an issue.	Little if any consideration given.	Would be reviewed by both MNDNR and Service to determine if an issue. If possibility of adverse impact, closer review may be done.

5. List of Preparers

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6. Consultation and Coordination With the Public and Others

This EA was prepared in consultation and coordination with the USFWS Region 3 Division of Federal Aid and USFWS Region 3 Environmental Review Coordinator.

The MN DNR's public water access program has been in existence for many decades. Consequently the program is well known to the public and resource professionals throughout the state. Within the MN DNR, the program consults with personnel from Fisheries, Wildlife, Waters, Ecological Services and Boat and Water Safety. Program field staff throughout the state, on a routine basis, consult and coordinate with a vast network of government officials, sportsmen clubs, lake associations, and the public at large as they plan and implement access site development. More detail on site specific consultation and coordination is described in this document in section 2.2.3, item 7.

In addition, the MN DNR works closely with local governments, state regional planning efforts, and agencies of the federal government such as the U. S. Forest Service, the U. S. Army Corps of Engineers, the National Park Service and the U. S. Fish and Wildlife Service to help plan and provide access development as efficiently and wisely as possible.

7. Public Comments and Response

The USFWS issued a news release informing the public of how they could get a copy of the draft EA. The USFWS also posted a copy of the draft EA on their NEPA web site (<http://midwest.fws.gov/NEPA/index.html>) to allow for additional review. The thirty-day public comment period established in the news release was open in August and September 2002. The only comment received concerned the operation and maintenance of an access site owned and operated by a municipality, not the MN DNR.

Appendices: (A) Public access statute; (B) MN Lakes and Rivers distribution map,
(C) Example: Site Specific Review